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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,996	01/21/2004	John D. Phillips	25003B	4300

22889 7590 09/16/2005

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

EXAMINER

KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,996

Applicant(s)

PHILLIPS, JOHN D.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: Marked drawing.

DETAILED ACTION

Applicant has amended claims in the paper dated 6/6/05. Pending claims 14-24 are examined below.

Claim Rejections - 35 USC § 102

Claims 14-24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. Des. 369,421 to Kiik et al. as in the previous office action.

Regarding claims 14 and 18, Kiik discloses a variably (random) cut shingle (see title) having an overlay sheet and underlay sheet (marked fig. 1), each overlay sheet having a plurality of select tabs and the underlay sheets having a plurality of shadow patches (marked fig. 1). Kiik also discloses the tabs as covering portions of the patches (fig. 2). In addition, Kiik discloses a portion which can be construed as a non shadow portion (marked figure) which, together with the shadow patches and remainder portions cause the shingle to appear as varying.

Regarding claim 15, Kiik discloses a remainder portion visible under a bottom edge of a tab (marked fig. 2).

Regarding claim 16, Kiik discloses the shingle as having a longitudinal axis and the remainder portion as having a vertical portion perpendicular to the shingle axis (marked fig. 2).

Regarding claim 17, Kiik discloses the longitudinal axis of the remainder portion as being parallel with the longitudinal axis of the shingle (marked fig. 2).

Regarding claim 19, Kiik discloses a shadow patch width as disposed along the longitudinal width of the shingle (marked fig. 2). Kiik also discloses the shadow width (marked fig. 2) as being longer than the tab width (marked fig. 2). Kiik also discloses the patches and tabs alternating along the length in a synchronized manner (fig. 2).

Regarding claim 20, Kiik discloses the two sheets as laminated together (figs. 3-5) and tabs covering partial portions of patches (fig. 2).

Regarding claim 21, Kiik discloses the remainder portion (marked fig. 2) as being established by the varying lengths of the tabs and patches (marked fig. 2).

Regarding claim 22, Kiik discloses the shingle as being random cut, therefore inherent of having varying remainder portions from shingle to shingle.

Regarding claim 23, Kiik discloses the remainder portion as having a vertical portion which is perpendicular to the longitudinal axis.

Regarding claim 24, Kiik discloses the remainder portion as having a longitudinal portion which is parallel to the shingle longitudinal portion (marked fig. 2).

Response to Arguments

Applicant's arguments filed 6/6/05 have been fully considered but they are not persuasive. Applicant argues that the newly amended claims are allowable over the prior art because they recite an additional portion to the shingle. However, applicant must note that the claims lack enough structure to differentiate from the prior art. The portions claimed do not contain any structure and are merely recited as being part of the shingle. The prior art may be construed as having many portions also. Such as shown

Art Unit: 3635

in the marked figure. Applicant's claimed structure is basically the varying tabs over an underlying sheet with various portions of a single sheet claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK


Basil Katcheves

9/14/05

Primary Examiner

U.S. Patent

Apr. 30, 1996

MARKED DRAWING
FOR APPLICATION
10/761996
Des. 369,421

FIG. 1

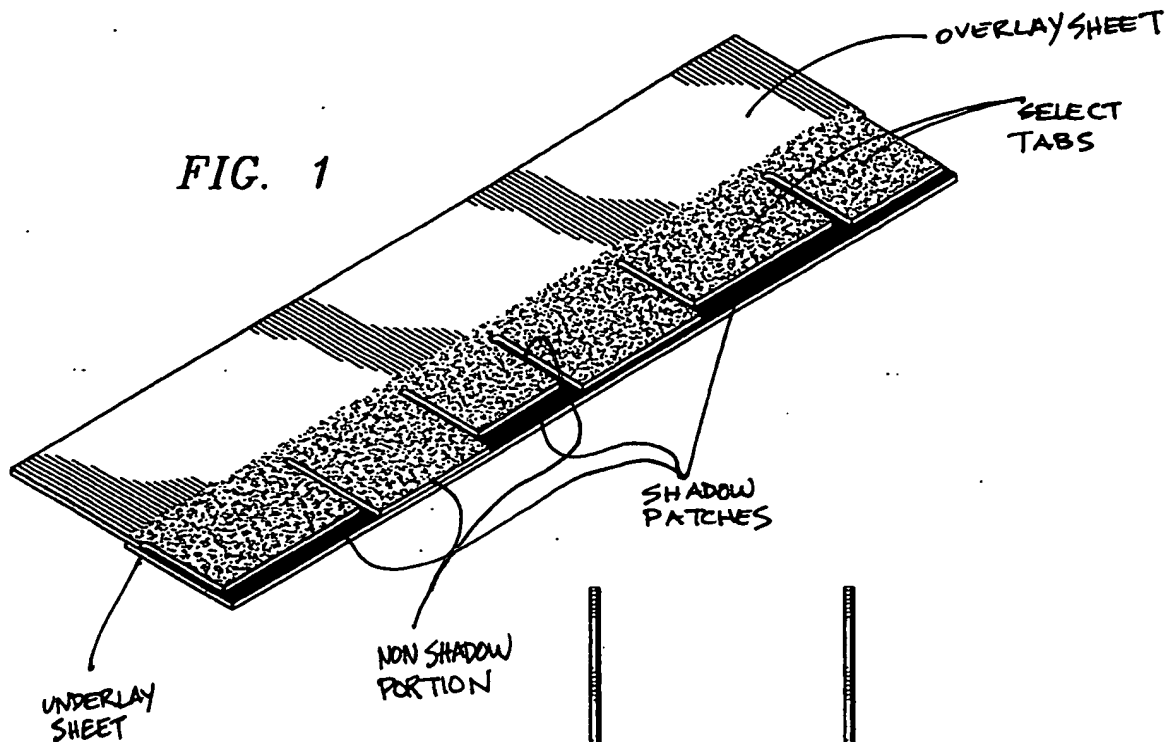


FIG. 4

FIG. 5

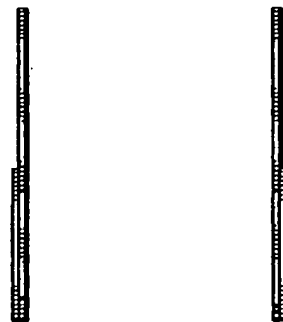


FIG. 2

FIG. 3

